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Nevada Department of Corrections*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TERRENCE DAVIS,

Plaintiff,

vs.

KLEER,

Defendants.

Case No. 3:22-cv-00152-MMD-CLB

ORDER GRANTING

**MOTION TO EXTEND 90-DAY STAY
(SECOND REQUEST)**

Interested Party, Nevada Department of Corrections (“NDOC”), by and through undersigned counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Sheryl Serreze, Deputy Attorney General, hereby requests this Honorable Court grant an extension of the 90-day stay of proceedings in this matter for an additional thirty (30) days, to and including December 19, 2022. This is movant’s second motion for an extension of the stay.

This motion is based upon the following memorandum of points and authorities, as well as all pleadings, documents, and exhibits on file in this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL AND PROCEDURAL BACKGROUND

This *pro se* prisoner civil rights action was brought by Plaintiff Terrance Davis (“Davis”) asserting claims pursuant to 42 U.S.C. § 1983. ECF No. 3 at 1:11-13. The Court allowed Davis to proceed with a single First Amendment claim for retaliation against Proposed Defendant Macelen Kleer (“Kleer”). *Id.* at 6:15-16. Davis sued for events that

1 allegedly took place while Davis was incarcerated within the NDOC at Ely State Prison
2 (“ESP”). *Id* at 3:14-16.

3 At the time the Court screened Davis’ Complaint, the Court also put in place a 90-
4 day stay to “allow [Plaintiff] and [Defendant] an opportunity to settle their dispute before
5 the \$350.00 filing fee is paid, and answer is filed, or the discovery process begins.” ECF
6 No. 3 at 6:22-24. The Screening Order also directed the Office of the Attorney General
7 (“OAG”) to file a report ninety days after the screening order to indicate the status of the
8 case at the end of the stay. ECF No. 3 at 7:1-4.

9 The OAG submitted its report on October 14, 2022, informing the Court that after
10 a mediation on October 11, 2022, the Parties were able to reach a successful settlement
11 agreement. ECF No. 9. The OAG also sought an extension of the stay up to and including
12 November 17, 2022, which was granted. ECF Nos. 10, 11.

13 The OAG prepared the settlement agreement and now has the fully executed
14 agreement in its possession. Unfortunately, prior counsel’s last day in the NDOC
15 litigation division was November 10, 2022, and undersigned counsel is substituting into
16 the case simultaneously herewith.

17 The requested additional 30-day extension will give new counsel the opportunity to
18 confirm that NDOC has fully complied with all terms of the agreement.

19 **II. LEGAL ARGUMENT**

20 Federal Rule of Civil Procedure 6(b)(1) governs extensions of time and provides as
21 follows:

22 When an act may or must be done within a specified time, the court may, for
23 good cause, extend the time: (A) with or without motion or notice if the court
24 acts, or if a request is made, before the original time or its extension expires;
or (B) on motion made after the time has expired if the party failed to act
because of excusable neglect.

25 The OAG submits that this motion will not hinder or prejudice Davis’ case as the
26 matter has been settled and the OAG is requesting only a short extension up to and
27 including December 19, 2022 in order to confirm that NDOC has fully complied with all
28 terms of the settlement agreement.

1 **III. CONCLUSION**

2 Good cause exists to further extend the 90 day stay of proceedings in this matter
3 and Interested Party, Nevada Department of Corrections, respectfully requests the Court
4 extend the stay for an additional thirty (30) days, to and including December 19, 2022.

5 DATED this 16th day of November 2022.

6 AARON D. FORD
7 Attorney General

8 By:


9 SHERYL SERREZE (Bar No. 12864)
Deputy Attorney General

10 *Attorneys for Interested Party*
11 *Nevada Department of Corrections*

12 **IT IS SO ORDERED.**

13 DATED: Novmber 16, 2022

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17 United States Magistrate Judge
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